



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

KEITH W. COOLEY
DIRECTOR

STATE BOUNDARY COMMISSION

PROCEDURE FOR INCORPORATION AS A HOME RULE CITY

CITIES (Other than 5th Class):

- A. The minimum population for incorporation is 2000 and an average population of 500 per square mile. (117.7)

5th CLASS CITIES:

- B. Any incorporated village may incorporate as a city of the fifth class if:

1. The territory to be incorporated has a population of more than 750, and less than 2000. (117.7)
2. If the territory to be incorporated lies within more than one township in the same county with population of more than 600, and less than 2000. (117.7)
3. An incorporated village which is also a county seat may incorporate as a city without respect to the size of its population. (117.7)

Any unincorporated territory may incorporate as a city of the fifth class if:

4. The territory contains a population of more than 750 and less than 2000 and an average of not less than 500 per square mile. (117.7)

Note 1 – Whenever in the process of incorporating a fifth class city and adopting a charter, it is disclosed by an official census that the population exceeds 2000, then all proceedings theretofore taken shall be deemed to be for a home rule city. (117.7)

Note 2 – An official census is the last preceding Federal census unless a later special census is ordered by the Boundary Commission.

VOTE ON INCORPORATION:

- C. Only the residents of the territory to be incorporated shall vote on the question of incorporation. (117.9)

DETERMINING POPULATION OF AFFECTED TERRITORY:

- D. Determined by the last preceding U.S. census. (117.6)
- E. No census of the territory affected by any proposed incorporation as provided in Section 6 of Act 279 of the Public Acts of 1909, as amended, shall be taken unless specifically ordered by the commission. (Sec. 7, 191)

THE PETITIONS AND ATTACHMENTS:

- F. If all the affected territory is in one county: (117.6)
 - 1. Petitions must be signed by not less than 5% of the population who are qualified electors and freeholders residing within the affected territory.
 - 2. No less than 100 signatures.
 - 3. No less than 10 of the signatures shall be obtained from each city, village or township to be affected.
 - G. If the affected territory is in more than one county: (117.6 and 117.11)
 - 1. Petitions must be signed by not less than 5% of the population who are qualified electors and freeholders residing within the affected territory.
 - 2. No less than 100 signatures.
 - 3. No less than 25 of the signatures shall be obtained from each city, village or township to be affected.
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PROCEDURE FOR INCORPORATION AS A HOME RULE CITY

Petitioners:

1. Accurately describe in the petition the boundaries of the proposed city. (117.7)
2. Represent in the petition that the territory meets the population conditions for incorporation. (117.7)
3. Attach the map or drawing to petition, clearly showing the territory to be incorporated. (117.6)

Circulator of Petition:

4. Shows map or drawing to each person before obtaining their signature on the petition (117.6)

Petitioners:

5. Attach an affidavit signed by one or more petitioners. (117.6 and 117.11)
6. Address the petition to the State Boundary Commission, Department of Labor and Economic Growth, 611 W. Ottawa, P.O. Box 30004, Lansing, MI 48909. (Sec. 7, 191)
7. File the petition with the State Boundary Commission. (Sec. 7, 191)

Boundary Commission:

8. Reviews the petition for conformance to Act 279 and to the rules and regulations of the Boundary Commission and: (Sec. 8, 191)
 - A. Rejects the petition for:
 - 1) Nonconformance with the Act and the Boundary Commission's rules.
 - 2) Containing incorrect statements.
 - B. Returns the petition to the petitioners, together with their reasons and certificate of rejection, or

- C. Declares to the petition legally sufficient and orders a public hearing on the petition.
- 9. Notifies the city and county clerks of the affected municipalities of the public hearing by certified mail at least 30 days before the date. (Sec.8, 191)
- 10. Gives notice of the public hearing at least 7 days before the date by publication in a newspaper of general circulation in the area. (Sec. 8, 191)
- 11. Holds a public hearing on the petition (Sec. 8, 191)
 - A. Not less than 60 or more than 220 days after the filing.
 - B. At some convenient place in the area proposed to be incorporated.
- 12. Considers the reasonableness of the proposed incorporation after considering the criteria established in Section 9. (Sec. 8, 191)
- 13. Determines whether to: (Sec. 10, 191)
 - A. Deny the proposed incorporation.
 - B. Approve the petition.
 - C. Revise the boundaries set forth in the petition, giving reasons for revisions and approval.
- 14. Adopts a resolution to: (Sec. 10, 191)
 - A. Deny the petition, giving its reasons for denial, or
 - B. Approve the petition, giving its reasons for approval, or

C. Revise the boundaries set forth in the petition and approve, giving its reasons for revisions and approval.

15. Sends a certified copy of its denial order to the petitioner and to each affected county, city, village or township clerk. (Sec. 10(2), 191)
16. Notifies the petitioner and each affected county, clerk, village or township clerk of its approval order and date. (Sec. 10(3), 191)

Note 1: The Commission's approval order is final 45 days after the date of the order unless a proper petition requesting a referendum is filed with the Commission within this 45 day period.

Note 2: The following steps 17 through 22 could apply if residents wish to file a referendum petition.

Voters in the Area Approved for Incorporation:

17. Circulate a petition to request a referendum on the incorporation question. (10(3), 191)

Note: This petition must be signed by at least 5% of the registered electors residing in the area approved for incorporation by the Commission.

Referendum Petitioners:

18. File the referendum petition with the commission within 45 days of the Commission's approval order. (Sec. 10 (3), 191)

Boundary Commission:

19. Verifies the validity of the referendum petition. (Sec. 10(4), 191)
20. Instructs the Executive Secretary to consult with the affected clerks to determine a possible referendum election date.

21. Orders an election to be held in the area approved for incorporation (Sec. 10(4), 191)
22. Specifies a date after the election on which the Commission's approval order shall become final if the proposal is approved by the voters. (Sec. 10(4), 191)

Note: Should the voters approve of the proposed incorporation or should no referendum petition be filed, the following steps would apply.

23. Sends a certified copy of the Commission's approval order to the petitioner and the clerk of each affected county, city, village or township and to the Secretary of State. (Sec. 10(5), 191)
24. Orders the election of the 9 charter commissioners at the next general election if it occurs not less than 40 days or more than 90 days after the order is issued. (Sec. 10(3), Sec. 10(5), 191), (117.8)

Note: Although (117.8) states 40 days, this would be impossible since charter commission candidates must file their nominating petitions a minimum of 49 days prior to Election Day.

25. Orders a special election for the election of 9 charter commissioners if a general election is not to be held within 90 days. (117.8)
26. Directs the clerk of each affected municipality to immediately issue public notice of:

A. The election of a charter commission.

B. The qualifications for charter commissioners.

C. The last day for filing nominating petitions for the office.

D. Number of signatures required.

E. Where to obtain nominating petition forms.

Each Charter Commission Candidate:

27. Files a petition with the county clerk on or before 4 P.M., EST, of the same day of the week, 7 weeks prior to the day of the election. (OAG No. 1165, Biennial Report 49-50, p. 516; MSA 6.551)

Note 1: A candidate must be an elector of the territory proposed to be incorporated. (117.15)

Note 2: The nominating petition must be signed by 20 qualified electors residing in the territory proposed to be incorporated. (117.15)

Boundary Commission:

28. Requests the county clerk to have ballots printed in accordance with the Boundary Commission's prescribed form. (117.15)

County Clerk:

29. Prepares the ballot for charter commissioners and places at the head of the ballot the statement, "candidates for the members of the charter commission". (117.15)

Each Village and Township Clerk:

30. Arranges for the election of the charter commissioners. (117.10)

31. Gives notice of the date and purpose of the election, as follows: (117.10)

A. Publishes in 1 or more newspapers published within the district at least once a week for 4 weeks before the election.

B. Posts like notice in at least 10 public places in the district not less than 10 days before the election.

Electors:

32. Vote for charter commissioners. (Sec. 10, 191)

Election Inspectors:

33. Make returns to the local clerk(s) who when take the returns to the county clerk the day after the election. (MSA 6.1809)

Note: “In local elections to be canvasses by the board of county canvassers which are not held in conjunction with a county or state election, the election inspectors shall deliver both sealed envelopes to the local clerk who shall deliver them to the county clerk prior to 11 A.M. on the day following the election.” (C.L. 168.809, MSA 6.1809)

34. Make returns to county clerk where the greater part of the proposed city is located if in more than 1 county. (117.12)

Village, Township or County Board of Canvassers:

35. Canvasses the vote for charter commissioners on the first Thursday following the election. (117.12)

Note: PA 65 of 1968 (MSA 6.1020(1)) established a 4 member board of canvassers in every city and township having more than 5 precincts, in each county with less than 1 million population, notwithstanding any statutory or charter provisions or any other rule or law to the contrary.

36. Certifies the election of the 9 persons receiving the highest vote to the successful candidates and the Boundary Commission. (117.15)

Boundary Commission:

37. Serves notice on charter commission to convene within 10 days.

Charter Commission:

38. Convenes within 10 days after the election and takes the constitutional oath of office. (117.15)

39. Certifies to the Boundary Commission that the first meeting has taken place.

40. Chooses its own officers. (117. 15)

41. Establishes the rules for its proceedings. (117.15)

Note 1: The charter commission has the power to fill vacancies in its membership.

Note 2: Five or more of its members shall constitute a quorum.

42. Keeps a journal and when requested by a member enters roll call votes in the journal. (117.15)

Note: Although (117.15) provides that the charter commission shall frame a charter within 90 days after taking the oath of office, this is not deemed to be a mandatory limit, but it directory only. (OAG No. 2367, 1955, Vol. 1, p. 776; OAG Biennial Reports, 1914, p. 70)

43. Drafts a proposed charter.

44. Sends the proposed charter to the Governor for his approval. (117.22)

Governor:

45. Reviews and approves the proposed charter, signs it and returns it to the charter commission, (117.22), or

46. Returns the proposed charter to the charter commission with a statement of his objections. (117.22)

Note: The two steps below would apply only when the Governor has expressed objections to the proposed charter.

Charter Commission:

- 47. Spreads the reasons for the Governor's objections upon its records. (117.22)
- 48. Reconsiders the charter in the light of the Governor's objections. (117.22)
- 49. Provides the manner of nominating the candidates for the first elective officers provided for in the proposed charter. (117.15)

Note: Steps 49 through 55 should be set forth and provided for in the schedule portion of the proposed charter.

- 50. Fixes the date of the first city election and referendum on the proposed charter. (117.15)

Note 1: The charter commission provides all other things that are necessary for the conduction of the election of the first elective officers of the proposed city.

Note2: This election is held in conjunction with the referendum on the proposed charter.

- 51. Publishes the proposed charter at least once in 1 or more newspapers published in the proposed city, not less than 2 weeks or more than 4 weeks preceding the election. (117.15)
 - A. Includes a notice of the election and that on the date fixed the question of adopting the proposed charter will be voted on.

B. Assures that the elective officers provided for in the charter will be elected on the same date.

52. Posts notices of the election in at least 10 public places within the proposed city, not less than 10 days prior to the election. (117.15)

53. Provides 1 or more polling places for the election and posts notices of their location in at least 10 public places not less than 10 days prior to the election. (117.15)

54. Appoints the election inspectors. (117.115)

NOTE: ELECTION PROCEDURES MUST FOLLOW THE REQUIREMENTS OF THE STATE ELECTION LAWS.

55. Submits the prepared charter to the electors of the affected territory for their approval or rejection. (117.22)

Electors:

56. Approve or disapprove the proposed charter. (117. 22)

Election Inspectors:

57. Make returns to the local clerk(s). (MSA 6.1809)

Local Clerks:

58. Take the returns to the county clerk the day after the election. (MSA 6.1809)

Note: See note under step 33.

Village, Township or County Board of Canvassers:

59. Canvasses the vote for and against the charter. (MSA 6.1030(1))

Note: See note under step 33.

***NOTE: FOLLOW STEPS 60 THROUGH 64 ONLY IF CHARTER IS APPROVED**

Charter Commission:

- 60. Files a copy of the approved charter with the Boundary Commission.

Charter Commission and Boundary Commission:

- 61. Secure certificates from the boards of canvassers showing: 117.13
 - A. The total number of votes cast if a referendum election on the question of incorporation was held, including the votes cast for and against the question.
 - B. The votes received by each charter commission candidate.
 - C. The votes for and against the charter
 - D. The votes for all candidates for the new city's first elective officers.
- 62. Attach to the initiatory petition every resolution, affidavit or certificate necessarily following the petition, including the certificates of step 61. (117.13)
- 63. File the initiatory petition and its attachments along with 2 copies of the charter with the county clerk or clerks and the Secretary of State. (117.13 and 117.24)

County Clerk(s) and Secretary of State:

- 64. Each record the copies of the petition and its attachments in a book to be kept for that purpose. (117. 13)

Note 1: Either of such records or certified copies shall be prima facie evidence of the incorporation. Upon filing, the charter becomes law unless a later date is set in the charter.

Note 2: Should the proposed charter be rejected, the person receiving the most votes for mayor, serves as de facto officer until a mayor is

elected and qualified pursuant to a charter approved by the electors. In such event, steps 65 through 67 may be taken.

De Facto Officer:

65. Reconvenes the charter commission if no petition is filed for election of a new charter commission. (117.16)

Charter Commission:

66. Revises the proposed charter for resubmission to the electors. (117.16)
67. Resubmits the proposed charter to the electors. (117.16)

Note: If, on submission of a second charter, a favorable vote is not obtained, the incorporation proceedings shall be ended. If a charter has not been adopted within a period of 2 years following the date of the commission's order becomes final, or if within the 2 year period the charter commission does not reconvene within 90 days after the defeat of the first proposed charter, the incorporation proceedings are ended. (Sec. 10(6), 191)

Qualified Electors:

68. May petition the de facto mayor for an election to select a new charter commission, by filing the signatures of 300 qualified electors. (117.17)

Note: Must be filed within 10 days of the canvass of the vote on the charter.

De Facto Officer:

69. Certifies upon the petition that it contains the required number of signatures. (117.17)
70. Files the petition with the Boundary Commission. (117.17)

Boundary Commission:

71. Gives notice to the filing of the petition in the same manner as upon the filing of the original incorporation petition. (117.17)
72. Orders the election of a new charter commission in the same manner as the first charter commission.

Electors of the Affected Territory:

73. Repeat the procedures of electing a charter commission, drafting a charter and voting on the proposed charter. (117.17)